

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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ELECTRONICALLY FILED  
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DATE FILED: January 13, 2016

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THE STATE OF NEW YORK and THE CITY  
OF NEW YORK, :

Plaintiffs, :

-v- :

UNITED PARCEL SERVICE, INC., :

Defendant. :

15-cv-1136 (KBF)

ORDER

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KATHERINE B. FORREST, District Judge:

The Court orders the parties to address the following questions by close of business on January 14, 2016:

1. Whether plaintiffs believe that they could have brought the pending motion to strike certain affirmative defenses (ECF No. 89) under Rule 12(c)? Apart from addressing the Rule 12(c) standard, would plaintiffs' arguments have been any different?
2. If plaintiffs moved pursuant to Rule 12(c), or if the Court construes the motion under Rule 12(c), would defendants' arguments have been materially different? While, for instance, it is possible that defendants would argue that the issues cannot be resolved solely as a matter of law but that facts need to be considered, couldn't that have also been done in opposition to a Rule 12(c) motion?

3. If the Court reviews the briefing under both Rule 12(c) and the motion to strike standard, would either party want to submit additional argument?

SO ORDERED.

Dated: New York, New York  
January 13, 2016

Handwritten signature of Katherine B. Forrest in black ink.

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KATHERINE B. FORREST  
United States District Judge